IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6965 OF 2004

Balasaheb Appasaheb Koli .. Petitioner

Versus

Tehsildar, Karveer,
Taluka: Karveer & Ors. .. Respondents

Mr.G.M.Savagave for the petitioner

None for the respondents

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 16TH SEPTEMBER, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. The petitioner in the present petition is challenging the order dated 18th May 2004 passed by the office of the Superintendent of Police, Kolhapur inter alia rejecting his application dated 15th July 2002 for reemploying him in the police force. Some of the material facts of the present case briefly enumerated are as under;

2. On 29th September 1984, the petitioner was

issued a caste certificate indicating that he belongs to Mahadeo Koli a Scheduled Tribe. On 11th October 1989 the petitioner was appointed as Police Constable in the Police Department of Kolhapur District on the strength of the said caste certificate. The petitioner could not obtain verification of his caste claim within the stipulated period of time so the petitioner was discharged from services on 21st October 1989. However, in Writ Petition No.229 of 1990 preferred by the petitioner, the said order of discharge was stayed and Divisional Commissioner, Pune Division was directed to hold an Enquiry into the caste certificate of the petitioner. Accordingly, the petitioner was placed back in employment on 2nd September 1991 pursuant to the order passed by this Court. On 4th January 1991, the Divisional Commissioner, Pune Division passed an order holding that the caste certificates which were produced by the petitioners were illegal and without jurisdiction and consequently directed cancellation of the same.

3. On 6th November 1991, the final order came to be passed by the Additional Commissioner, Pune Division directing the Executive Magistrate, Karveer to cancel the caste certificates issued to the petitioners. Accordingly, on 14th January 1992 the said caste certificate was cancelled by the authorities. In view of such cancellation of caste certificate, petitioner failed to establish that he was entitled to an employment on the basis of reservation under the scheduled tribe categories. Thus, on 14th February 1992, Superintendent of Police, Kolhapur issued a discharge order against the petitioner discharging the petitioner from employment.

4. In 1992 the petitioner filed a suit challenging the said order of discharge being Regular Civil Suit No.123 of 1992. However, on 1st December 2000 the said suit also came to be dismissed for want of prosecution. On 15th July 2002 i.e. almost after a period of 10 years from the date of discharge he made representation to the Superintendent of Police to reinstate him back in service and since there

was no response he filed writ petition in this court being Writ Petition no.6707 of 2003 challenging the order dated 4th November 1991 passed by the 3rd respondent. On 22nd March 2004 the Division Bench of this court directed the 4th respondent to decide the representation of the 4th respondent dated 15th July 2002 and pass appropriate order. The 4th respondent has by an order dated 18th May 2004 rejected the representation of the petitioner. While rejecting the said representation the respondents have inter alia pointed out that the caste claim made by the petitioner was found to be bogus and invalid and consequently he is discharged from services w.e.f. 4th February 1992. It has been further pointed out that the claim of the petitioner for a benefit of the G.R. of 1995 and for protection of services thereunder cannot be considered as prior to the date of the said G.R. his services were already terminated in 1992 itself. In the light of the aforesaid the said representation has been rejected.

5. The learned counsel appearing for the petitioner before us has contended that he is entitled to protection of G.R. dated 15th June 1995 and further contended that he is also entitled to protection under Circular dated 20th March 2002. The learned counsel has also placed reliance on the Judgment of this court in Writ Petition No.194 of 2003 and contended that the services of the petitioner should be protected after reinstating him in his job even though he has been dismissed almost about 12 years back.

6. Apart from the fact that the claim is totally belated and the petition suffers from serious laches and delay even on merits, the petitioner in our opinion is not entitled to any relief. His services have already been terminated prior to G.R. of 15th June, 1995. The said resolution protects only those employees who were in service as on the date on the said G.R. Benefit of the circular dated 20th March 2002 cannot be conferred on the petitioner once the petitioner is dismissed from services as far back as 1992 and thus, the claim

made by the petitioner in the present petition is devoid of any merits. In the aforesaid circumstances, we dismiss the petition. However, there shall be no order as to costs.